

REMARKS

Claims 1-15 are pending in this application. In the June 10, 2002 Office Action the Examiner require restriction of the claims to one of the following groups of subject matter:

- I. Claims 1-6, 9, and 10, directed in part to compounds of formula I wherein R¹ and R² are selected from hydrogen (C₁-C₄) alkyl, (C₂-C₄) alkenyl and (C₂-C₄) alkynyl;
- II. Claims 1-6, 9 and 10 drawn in part of compounds of formula I wherein R¹ and R² together with the nitrogen to which they are attached form a five membered saturated ring containing one or two heteroatoms, wherein the second heteroatom, if present, is nitrogen. [The Examiner also wrote that R¹ and R² may also be selected from hydrogen (C₁-C₄) alkyl, (C₂-C₄) alkenyl and (C₂-C₄) alkynyl in this Group II; however, applicants presume this was an inadvertent error since these choices were already provided in Group I. Clarification is kindly requested if this is not the case].
- III. Claims 1-6, 9, and 10 drawn in part to compound of formula I wherein R₁ and R₂ together with the nitrogen to which they are attached form a six membered saturated ring containing one or two heteroatoms, wherein the second heteroatom, if present, is a nitrogen. [Again, the Examiner also wrote that R¹ and R² may also be selected from hydrogen (C₁-C₄) alkyl, (C₂-C₄) alkenyl and (C₂-C₄) alkynyl in this Group II; however, applicants presume this was an inadvertent error since these choices were already provided in Group I. Clarification is kindly requested if this is not the case].
- IV. Claims 1-6, 9 and 10, drawn in part to compounds of formula I where R¹ and R² together with the nitrogen to which they are attached forma a five membered saturated ring containing one or two heteroatoms, wherein the second heteroatom, when present is oxygen or sulfur. [Again, the Examiner also wrote that R¹ and R² may also be selected from hydrogen (C₁-C₄) alkyl, (C₂-C₄) alkenyl and (C₂-C₄) alkynyl in this Group II; however, applicants presume this was an inadvertent error since these choices were already provided in Group I. Clarification is kindly requested if this is not the case].

V. Claims 1-6, 9 and 10 drawn in part to compounds of formula I wherein R¹ and R² together with the nitrogen to which they are attached form a six membered saturated ring containing one or two heteroatoms, wherein the second heteroatom when present is oxygen or sulfur. [Again, the Examiner also wrote that R¹ and R² may also be selected from hydrogen (C₁-C₄) alkyl, (C₂-C₄) alkenyl and (C₂-C₄) alkynyl in this Group II; however, applicants presume this was an inadvertent error since these choices were already provided in Group I. Clarification is kindly requested if this is not the case].

VI. Claim 15 drawn to compounds of the formula XVIII wherein Q is c(=O)H, cyano, -C(=O)OH or -C(=O)NR¹R² herein R¹ and R² are selected independently from hydrogen, (C₁-4) alkyl or R¹ and R² together with the nitrogen to which they are attached for a six membered saturated ring containing one or two heteroatoms, wherein the second heteroatom, if present, is oxygen or sulfur.

The Examiner further indicated that, with respect to each of the above groups of claims, a pharmaceutical composition comprising the designated subset of compounds of formula I would be included, and also that a method of using the designated subset of compounds for treatment of a single disorder or condition (e.g. "depression") would be permitted to be included.

In response to the Examiner's requirement, applicants elect the compounds of Group I and, for the single indication/condition, applicants elect "depression". Applicants' election is made partially with traverse. Applicants do not traverse the restriction of the compounds of formula I into different subsets of compounds; however, applicants do traverse the requirement that the claims be restricted to a method for treating a single indication or condition. First of all, applicants submit that to include all of the recited indications and conditions within an elected group would not add to the scope of the search that the Examiner will have to conduct; the Examiner will still have to search the same Classes and Subclasses regardless of whether one, two or all of the recited indications and conditions are included. Applicants further submit that including all of the recited indications and conditions will not substantially add to the scope of the examination the Examiner will have to undertake. The Examiner will, for example, not be required to do a separate novelty and unobviousness analysis

for each listed indication, as the novelty and unobviousness of applicants' invention stems from the claimed compounds of formula I. Also, it would be unfair to require applicants to file a separate patent application for every single indication and condition that are included within the scope of applicants' invention. Accordingly, applicants respectfully request that the Examiner reconsider and withdraw the requirement that applicants "method of use" claims be restricted to a single disorder/condition.

Applicants further kindly request that new claims 16, above, be entered. Support for the subject matter of new claim 16 may be found in the originally-filed specification, for example Example 30, on page 40 of the originally-filed specification, and Example 42, on page 42 of the originally-filed application. Also, both of the compounds claimed in new claim 16 comprise the same core structure as the subset of compounds delineated by the Examiner in the elected Group I. Therefore, applicants maintain that new claim 16 does not raise an issue of new matter and respectfully request that new claim 16 be entered.

Claims 1-7, 9, and 11 read on the elected Group I, and new claim 16 comprises the same core as the elected Group I. Applicants respectfully request examination of claim 16 with the elected Group I.

If a telephone interview would be of assistance in advancing the prosecution of the subject application, the Examiner is kindly invited to telephone applicants' undersigned attorney at the telephone number provided.

No fee, other than the fee for the five month extension of time authorized in the Petition filed herewith, is believed necessary in connection with filing this Communication. However, if any additional fee is found necessary in connection with filing this Communication, authorization is hereby given to charge such fee to Deposit Account No. 16-1445.

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Respectfully submitted,

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